

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ECF CASE

-----X
LOCAL 456, INTERNATIONAL BROTHERHOOD
OF TEAMSTERS,

Plaintiff,

—against—

ALL ROCK CRUSHING, INC.,

Defendant.
-----X

Case No. 08–Civ.–1894(SCR)

**AFFIDAVIT OF JANE
GORDINEER IN
OPPOSITION TO
DEFENDANT’S MOTION
TO VACATE
ARBITRATION AWARD**

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

JANE GORDINEER, being duly sworn, deposes and says:

1. That I am Executive Assistant and Office Manager in the offices of the plaintiff Local 456, International Brotherhood of Teamsters (“the Union”), and I make this affidavit in opposition to the defendant’s motion to vacate a certain arbitration award, and in support of confirmation and enforcement of the award.

2. I have worked for the Union for 27 years, and have held the above positions for about 20 years.

3. In these capacities, I have over-all responsibility for maintaining records of all collective bargaining agreements to which the Union is a party, and for producing copies of the correct collective bargaining agreement when questions arise.

4. As such, I am fully familiar with the collective bargaining agreement between the Union and defendant All Rock Crushing, Inc. (“All Rock”), and the applicable wage and benefits rates.

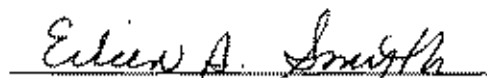
5. At all times relevant to this lawsuit, including from 2005 through May 31, 2008, All Rock was signatory to the "Heavy Construction Agreement". Attached as Exhibit "A" is a copy of the signature page.

6. Attached as Exhibit "B" are true copies of the heavy construction wage rates and benefit contribution rates for the years 7/1/2004 to 6/30/2005, 7/1/2005 to 6/30/2006, 7/1/2006 to 6/30/07, and 7/1/2007 to 6/30/2008.

7. The benefit contribution rates are subject under the Heavy Construction Agreement to reallocation among the several benefit funds of the specific contribution rates for each benefit fund on the recommendation of the Funds trustees; however, this reallocation does not affect the total amount of contributions due.

SWORN to before me this
18th day of July, 2008.


JANE GORDINEER

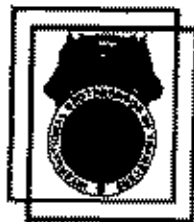

Notary public

Eileen A. Smyth
Notary Public, St. of New York
No. 4836500
Qualified in Putnam County
Commission Expires Nov. 30, 2009

TEAMSTERS UNION LOCAL No. 456

Affiliated with
International Brotherhood of Teamsters

EDWARD DOYLE, JR.
President



ROBERT A. ROBERGE
Secretary - Treasurer

Affiliated With
New York State Building and
Construction Trades Council
Westchester-Putnam Building Trades Council

Phones: (914) 592-9500/1/2
(914) 769-5577
Fax: (914) 592-4266

160 So. Central Avenue • Elmsford, New York 10523

HEAVY CONSTRUCTION AGREEMENT (Independent Employer)

The undersigned Employer hereby agrees to be bound by all of the terms and conditions set forth in the Heavy Construction Agreement presently in effect between Teamsters Local 456, affiliated with the International Brotherhood of Teamsters, and the Construction Industry Council of Westchester and The Hudson Valley, Inc. and the Building Contractors Association of Westchester and Mid-Hudson Region, Inc. as the same may be amended, modified or extended from time to time.

FOR THE INDEPENDENT EMPLOYER:

ALL ROCK CRUSHING, INC
(Name of Employer)

465 YOCKTOWN ROAD, CROTON ON HUDSON NY. 10520
(Address of Employer)

BY: Dan Muro DAN MURO Date: 1/15/05
(President)

Telephone Number: (914) 827-3274

Fax Number: (914) 271-8393

Federal ID#: 13-4094575

FOR THE UNION:

Teamsters Local 456 a/w International Brotherhood of Teamsters

By: Edward Doyle Date: 7/13/05
(Business Manager)

Serving
Westchester, Putnam and Dutchess Counties
New York



Honorary Presidents
John Acropolis
Edward Doyle

Authorization Form, the sum of five cents (\$.05) for each hour paid to each employee but not to exceed forty (40) hours per week. Such authorization shall be signed in duplicate and may be revoked by the employee in writing to the Union and the Employer.

5. The Employer shall notify the Union in the event the Employer needs additional help, and the Union shall refer applicants without discrimination as to their membership or non-membership in the Union, and the Employer shall have the right to determine which of said persons referred by the Union shall be employed. In making such referral and selection, the parties shall give due consideration to seniority with the Employer, the Employer's request for a particular person, the qualifications of the applicant to operate the equipment, the prior experience of the applicant in the industry, the applicant's competence to perform the work and the duration of the applicant's period of unemployment.

6. The Employer agrees to contact the Union for workers either the day before or the morning of each day workers are needed, and referrals will be made according to the factors set forth above. If the Union is unable to supply workers, the employer will be notified as soon as possible to avoid down time and to make other arrangements.

ARTICLE II - WAGES

1. The following basic minimum scale of wages shall be paid by the Employer:

CLASSIFICATIONS:

Chauffeurs:

	7/01/04 - 6/30/05		
	Hour	and 1/2	Vacation
Straight Jobs	\$30.01	\$45.02	\$13.34
6-Wheeler	30.01	45.02	13.34
10-Wheeler	30.01	45.02	13.34
A-Frame Trucks (inside cab)	30.01	45.02	13.34
Winch Truck (inside cab)	30.01	45.02	13.34
Dynamite Trucks	30.01	45.02	13.34
Seeding Trucks	30.01	45.02	13.34
Mulching Trucks	30.01	45.02	13.34
Agitator Trucks	30.01	45.02	13.34
Water Trucks	30.01	45.02	13.34

Cement Trucks (all types)	30.01	45.02	13.34
Suburban, Station Wagons, Cars, Pick-Ups	30.01	45.02	13.34
Any vehicle carrying materials of any kind Tractor & Trailers			
All Types	30.03	45.05	13.61
Low Boy (carrying equipment)	31.26	46.09	13.69
14-Wheeler	30.13	45.20	13.39
Fuel Trucks	30.46	45.68	13.54
Tire Trucks	30.46	45.68	13.54
Off-Road Equipment (Over 40 Tons)			
Euclid	31.01	46.52	13.78
Athley Wagons	31.01	46.52	13.78
D.J.S.	31.01	46.52	13.78
Belly Dumps	31.01	46.52	13.78
Articulated Dumps	31.01	46.52	13.78
Trailer Wagons	31.01	46.52	13.78
Off-Road Equipment (Under 40 Tons)			
Euclid	30.38	45.57	13.58
Athley Wagons	30.76	46.14	13.67
D.J.S.	30.76	46.14	13.67
Belly Dumps	30.76	46.14	13.67
Articulated Dumps	30.76	46.14	13.67
Trailer Wagons	30.76	46.14	13.67
Darts	31.51	47.27	14.00
RXS	31.88	47.82	14.17

Plant:

Hopper Person	30.01	45.02	13.34
Crusher Operator	30.01	45.02	13.34
Lift Truck (in garage, yard or jobsite)	30.01	45.02	13.34
Mixer person (asphalt plant & cement hopper operations, one who weighs ingredients and in manual or automatic control mixing plants)	30.01	45.02	13.34
High Pressure Operator (in asphalt & batch plants)	30.19	45.20	13.39
Weighmaster	31.26	46.09	13.69
Welders	30.21	45.32	13.43
Maintenance Person	30.21	45.32	13.43
Mechanic	30.21	45.32	13.43
Mechanics Helper	29.88	44.82	13.28
Stock Room Person	29.88	44.82	13.28
Working Foreman in Garage	30.66	45.98	13.63
Yardperson & Helpers	29.76	44.64	13.23

FRINGE BENEFIT CONTRIBUTIONS
 (Wage and Benefit Increase to Run
 From July 1 to June 30 each Year)

7/01/04 - 6/30/08
 Per Hour

**Contributions for each hour worked limited
 to forty (40) hours per week**

Welfare Fund	\$4.95
Pension Fund	4.95
Legal Services Fund* .....	.15
Education and Training Fund .....	.05
Annuity Fund	5.00

*Added to wages, taxed and remitted to Legal Services Fund.

Contributions for each hour worked

Supplemental Unemployment Benefit Fund ..	.25
Industry Advancement Fund .....	.25

**Deducted from wages for each hour worked,
 limited to forty (40) hours per week**

Political Action Fund	-.05
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Deducted From Wages for each hour worked

Administrative Dues	-.80
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On each July 1st of the contract, upon the recommendation of the Trustees of the Welfare, Pension, SUB, Annuity, Training and Legal Services Funds, the Union and the Association may agree to reallocate the amount set forth above to be contributed to the Welfare, Pension, SUB, Annuity, Training and Legal Services Funds respectively; however, in no event shall the total benefit fund amount to be contributed exceed the total benefit fund amount agreed to between the Union and the Employer.

Plant:			
Hopper Person	31.08	46.62	13.81
Crusher Operator	31.08	46.62	13.81
Lift Truck (in garage, yard or jobsite)	31.08	46.62	13.81
Mixer person (asphalt plant & cement hopper operations, one who weighs ingredients and in manual or automatic control mixing plants)	31.08	46.62	13.81
High Pressure Operator (in asphalt & batch plants)	31.20	46.80	13.87
Weighmaster	32.33	48.50	14.37
Welders	31.28	46.92	13.90
Maintenance Person	31.28	46.92	13.90
Mechanic	31.28	46.92	13.90
Mechanics Helper	30.95	46.43	13.76
Stock Room Person	30.95	46.43	13.76
Working Foreman in Garage	31.73	47.60	14.10
Yardperson & Helpers	30.83	46.25	13.70

FRINGE BENEFIT CONTRIBUTIONS
(Wage and Benefit Increase to Run
From July 1 to June 30 each Year)

7/01/05 - 6/30/06
Per Hour

**Contributions for each hour worked limited
to forty (40) hours per week**

Welfare Fund**	\$5.20
Pension Fund	5.35
Legal Services Fund* .....	.20
Education and Training Fund .....	.05
Annuity Fund	5.00

* Added to wages, taxed and remitted to Legal Services Fund.

** \$5 per hour to be segregated into a special account for Haz-Mat testing, etc.

Contributions for each hour worked

Supplemental Unemployment Benefit Fund ..	.25
Industry Advancement Fund .....	.30

**Deducted from wages for each hour worked,
limited to forty (40) hours per week**

Political Action Fund	-.05
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ARTICLE II—WAGES

1. The following basic minimum scale of wages shall be paid by the Employer:

CLASSIFICATIONS:

7/01/05 - 6/30/06

Drivers:	Per Hour	Time and 1/2	Per Hour
Straight Jobs	\$31.08	\$46.62	\$13.81
5-Wheelers	31.08	46.62	13.81
10-Wheelers	31.08	46.62	13.81
A-Frame Trucks (inside cab)	31.08	46.62	13.81
Winch Truck (inside cab)	31.08	46.62	13.81
Dynamite Trucks	31.08	46.62	13.81
Seeding Trucks	31.08	46.62	13.81
Mulching Trucks	31.08	46.62	13.81
Agitator Trucks	31.08	46.62	13.81
Water Trucks	31.08	46.62	13.81
Cement Trucks (all types)	31.08	46.62	13.81
Suburban, Station Wagons, Cars, Pick-Ups	31.08	46.62	13.81
Any vehicle carrying materials of any kind			
Tractor & Trailers			
All Types	31.70	47.55	14.09
Low Boy*	33.33	50.00	14.81
14-Wheeler	31.20	46.80	13.87
Fuel Trucks	31.53	47.30	14.01
Tire Trucks	31.53	47.30	14.01
Off-Road Equipment (Over 40 Tons)			
Euclid**	32.58	48.87	14.48
Athy Wagons	32.08	48.12	14.26
D.J.B.**	32.58	48.87	14.48
Belly Dumps	32.08	48.12	14.26
Articulated Dumps	32.08	48.12	14.26
Trailer Wagons	32.08	48.12	14.26
Off-Road Equipment (Under 40 Tons)			
Euclid**	31.95	47.93	14.20
Athy Wagons	31.83	47.75	14.15
D.J.B.**	32.33	48.50	14.37
Belly Dumps	31.83	47.75	14.15
Articulated Dumps	31.83	47.75	14.15
Trailer Wagons	31.83	47.75	14.15
Darts	32.58	48.87	14.48
RXS	32.95	49.43	14.65

* Low Boy Drivers that load/unload equipment will receive an additional \$1.00 per hour effective 7/01/05.

* DJB and Euclid Drivers will receive an additional \$.50 per hour effective 7/01/05.

Plant:			
Hopper Person	32.58	48.87	14.48
Crusher Operator	32.58	48.87	14.48
Lift Truck (in garage, yard or jobsite)	32.58	48.87	14.48
Mixer person (asphalt plant & cement hopper operations, one who weighs ingredients and in manual or automatic control mixing plants)	32.58	48.87	14.48
High Pressure Operator (in asphalt & batch plants)	32.70	49.05	14.53
Weighmaster	33.83	50.75	15.04
Welders	32.78	49.17	14.57
Maintenance Person	32.78	49.17	14.57
Mechanic	32.78	49.17	14.57
Mechanics Helper	32.45	48.68	14.42
Stock Room Person	32.45	48.68	14.42
Working Foreman in Garage	33.23	49.85	14.77
Yardperson & Helpers	32.33	48.50	14.37

FRINGE BENEFIT CONTRIBUTIONS
(Wage and Benefit Increase to Run
From July 1 to June 30 each Year)

	7/01/06 - 6/30/07 Per Hour
Contributions for each hour worked limited to forty (40) hours per week	
Welfare Fund**	\$5.50
Pension Fund	5.35
Legal Services Fund* .....	.20
Education and Training Fund .....	.05
Annuity Fund	5.00
* Added to wages, taxed and remitted to Legal Services Fund.	
** 5¢ per hour to be segregated into a special account for Haz-Mat testing, etc.	

Contributions for each hour worked	
Supplemental Unemployment Benefit Fund .....	.25
Industry Advancement Fund .....	.30

Deducted from wages for each hour worked, limited to forty (40) hours per week	
Political Action Fund	— .05

ARTICLE II—WAGES

1. The following basic minimum scale of wages shall
be paid by the Employer:

CLASSIFICATIONS:

7/01/06 - 6/30/07

Drivers:

	Per Hour	Time and 1/2	Pro-Rata Wages
Straight Jobs	\$32.58	\$48.87	\$14.48
6-Wheelers	32.58	48.87	14.48
10-Wheelers <i>Roll-Off</i>	32.58	48.87	14.48
A-Frame Trucks (inside cab)	32.58	48.87	14.48
Winch Truck (inside cab)	32.58	48.87	14.48
Dynamite Trucks	32.58	48.87	14.48
Seeding Trucks	32.58	48.87	14.48
Mulching Trucks	32.58	48.87	14.48
Agitator Trucks	32.58	48.87	14.48
Water Trucks	32.58	48.87	14.48
Cement Trucks (all types)	32.58	48.87	14.48
Suburban, Station Wagons, Cars, Pick-Ups	32.58	48.87	14.48
Any vehicle carrying materials of any kind Tractor & Trailers			
All Types	33.20	49.80	14.76
Low Boy*	34.83	52.25	15.48
14-Wheeler	32.70	49.05	14.53
Fuel Trucks	33.03	49.55	14.68
Tire Trucks	33.03	49.55	14.68
Off-Road Equipment (Over 40 Tons)			
Euclid**	34.08	51.12	15.15
Athley Wagons	33.58	50.37	14.92
D.J.B.**	34.08	51.12	15.15
Belly Dumps	33.58	50.37	14.92
Articulated Dumps	33.58	50.37	14.92
Trailer Wagons	33.58	50.37	14.92
Off-Road Equipment (Under 40 Tons)			
Euclid**	33.45	50.18	14.87
Athley Wagons <i>33.83</i>	33.83	50.00	14.81
D.J.B.**	33.83	50.75	15.04
Belly Dumps	33.33	50.00	14.81
Articulated Dumps	33.33	50.00	14.81
Trailer Wagons	33.33	50.00	14.81
Darts	34.08	51.12	15.15
RXS	34.45	51.68	15.31

- * Low Boy Drivers that load/unload equipment will receive an
additional \$1.00 per hour effective 7/01/05.
* DJB and Euclid Drivers will receive an additional \$.50 per hour
effective 7/01/05.

Plant:			
Hopper Person	33.58	50.37	14.92
Crusher Operator	33.58	50.37	14.92
Lift Truck (in garage, yard or jobsite) ..	33.58	50.37	14.92
Mixer person (asphalt plant & cement hopper operations, one who weighs ingredients and in manual or automatic control mixing plants)	33.58	50.37	14.92
High Pressure Operator (in asphalt & batch plants)	33.70	50.56	14.98
Weighmaster	34.83	52.25	15.48
Welders	33.78	50.67	15.01
Maintenance Person	33.78	50.67	15.01
Mechanic	33.78	50.67	15.01
Mechanics Helper	33.45	50.18	14.87
Stock Room Person	33.45	50.18	14.87
Working Foreman in Garage	34.23	51.35	15.21
Yardperson & Helpers	33.33	50.00	14.81

FRINGE BENEFIT CONTRIBUTIONS
(Wage and Benefit Increase to Run
From July 1 to June 30 each Year)

7/01/07 - 6/30/08
Per Hour

**Contributions for each hour worked limited
to forty (40) hours per week**

Welfare Fund**	\$5.85
Pension Fund	5.85
Legal Services Fund* .....	.20
Education and Training Fund .....	.05
Annuity Fund	5.00

* Added to wages, taxed and remitted to Legal Services Fund.
** 5¢ per hour to be segregated into a special account for Haz-Mat testing,
etc.

Contributions for each hour worked

Supplemental Unemployment Benefit Fund ..	.25
Industry Advancement Fund .....	.30

**Deducted from wages for each hour worked,
limited to forty (40) hours per week**

Political Action Fund	-.05
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ARTICLE II—WAGES

1. The following basic minimum scale of wages shall
be paid by the Employer:

CLASSIFICATIONS:

7/01/07 - 6/30/08

Per Hour Time Pro-Rate
and 1/2 Vacation

Drivers:

Straight Jobs	\$33.58	\$50.37	\$14.92
6-Wheelers	33.58	50.37	14.92
10-Wheelers	33.58	50.37	14.92
A-Frame Trucks (inside cab)	33.58	50.37	14.92
Winch Truck (inside cab)	33.58	50.37	14.92
Dynamite Trucks	33.58	50.37	14.92
Seeding Trucks	33.58	50.37	14.92
Mulching Trucks	33.58	50.37	14.92
Agitator Trucks	33.58	50.37	14.92
Water Trucks	33.58	50.37	14.92
Cement Trucks	33.58	50.37	14.92
Suburban, Station Wagons, Cars, Pick-Ups	33.58	50.37	14.92
Any vehicle carrying materials of any kind ↳ Tractor & Trailers			
All Types	34.20	51.30	15.20
↳ Low Boy*	35.83	53.75	15.92
14-Wheeler	33.70	50.56	14.98
Fuel Trucks	34.03	51.05	15.12
Tire Trucks	34.03	51.05	15.12
Off-Road Equipment (Over 40 Tons)			
Euclid**	35.08	52.62	15.59
Athy Wagons	34.58	51.87	15.37
D.J.B.**	35.08	52.62	15.59
Belly Dumps	34.58	51.87	15.37
Articulated Dumps	34.58	51.87	15.37
Trailer Wagons	34.58	51.87	15.37
Off-Road Equipment (Under 40 Tons)			
Euclid**	34.45	51.68	15.31
Athy Wagons	34.33	51.50	15.26
D.J.B.**	34.83	52.25	15.48
Belly Dumps	34.33	51.50	15.26
Articulated Dumps	34.33	51.50	15.26
Trailer Wagons	34.33	51.50	15.26
Darts	35.08	52.62	15.59
RXS	35.45	53.18	15.76

* Low Boy Drivers that load/unload equipment will receive an
additional \$1.00 per hour effective 7/01/05.
* D.J.B. and Euclid Drivers will receive an additional \$.50 per hour
effective 7/01/05.